UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/295,935	04/21/1999	POLLY STECYK	705397.15	7765

34313 7590 08/02/2011

ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

EXAMINER	
SHANG, ANNAN Q	

ART UNIT	PAPER NUMBER
2424	

MAIL DATE	DELIVERY MODE
08/02/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte POLLY STECYK, EDWIN JOU, and SHAWN GRAHAM

Appeal 2009-015170
Application 09/295,935
Technology Center 2400

Before ALLEN R MacDONALD, ROBERT E. NAPPI, and JASON V. MORGAN, Administrative Patent Judges.

MacDONALD, Administrative Patent Judge.

DECISION ON APPEAL

STATEMENT OF CASE

Introduction

Appellants appeal under 35 U.S.C. § 134 from a final rejection of claims 1-46. We have jurisdiction under 35 U.S.C. § 6(b).

Exemplary Claim(s)

Exemplary independent claim 1 under appeal reads as follows:

1. A method of supervising personal exposure to a consumer electronics device having a V-chip, the method comprising:

receiving a program signal suitable for conversion by the consumer electronics device into user discernible information;

receiving a content-based indicator indicative of the content of the user discernible information and timing information indicative of a reference time;

selecting a first content-based specification and a first finite time range specification associated with the first content-based specification, wherein the first finite time range specification is less than twenty-four hours in duration;

selecting a second content-based specification different from the first content-based specification and a second finite time range specification associated with the second content-based specification, wherein the second finite time range specification is less than twenty-four hours in duration and encompassing a different time range than first finite time range specification;

comparing the reference time with the first and second finite time range specifications;

allowing user review of user discernible information without user input and without comparison of the received content-based indicator with a content-based specification if the reference time is outside the first and second finite time range specifications;

comparing the received content-based indicator with the first content-based specification when the reference time falls within the first finite time range specification and with the second content-based specification when the reference time falls within the second finite time range specification; and

> impairing the program signal if the received content-based indicator exceeds the first content-based specification associated with the first finite time range specification when the reference time falls within the first finite time range specification or exceeds the second content-based specification associated with the second finite time range specification when the reference time falls within the second finite time range specification.

Appellant's Contentions

Appellants contend that the Examiner erred in rejecting claims 1-46 under 35 U.S.C. § 102(e) as being anticipated by Casement (US 5,969,748, October 19, 1999), because:

> Contrary to the Examiner's assertion, Casement does not describe, teach or suggest the combined or simultaneous use of both time and content locks to block program viewing and, more importantly, does not describe, teach or suggest the use of time based content locks as claimed in claims 1-46.

(App. Br. 18). Further:

> [T]he four comers of Casement fails to disclose, . . . (2) comparing the received content-based indicator with the first content-based specification when the reference time falls within the first finite time range specification and with the second content-based specification when the reference time falls within the second finite time range specification; and (3) impairing the program signal if the received content-based indicator exceeds the first content-based specification associated with the first finite time range specification when the reference time falls within the first finite time range specification or exceeds the second content-based specification associated with the second finite time range specification when the reference time falls within the second finite time range specification.

(App. Br. 19-20)(Emphasis added).

Issue on Appeal

Did the Examiner err in rejecting claims 1-46 as being anticipated because Casement fails to disclose the argued claim limitation?

ANALYSIS

We agree with the Appellants' that the Examiner has erred in finding that Casement anticipates the claims.

Although the Examiner correctly points out that Casement describes that "the user may lock-out programs by channel, by rating, content, and/or timing" (Casement "Summary of the Invention" 1:36-37), the Appellants correctly point out that the specific embodiments of Casement upon which the Examiner based the § 102 rejection are limited to "content or timing" and do not describe "content and timing."

While the above cited Summary of Casement may provide an explicit suggestion to modify Casement's specific embodiments to include some form of "content and timing" based control, the Examiner has provided no analysis to show whether it would have been obvious to arrive at the specific embodiment claimed by Appellants.

The Board of Patent Appeals and Interferences is a review body, rather than a place of initial examination. We leave it to the instant Examiner to determine the appropriateness of any § 103 rejections based on the Casement reference.

CONCLUSIONS

(1) Appellants have established that the Examiner erred in rejecting claims 1-46 as being anticipated under 35 U.S.C. § 102(b).

(2) On this record, claims 1-46 have not been shown to be unpatentable.

DECISION

The Examiner's rejection of claims 1-46 is reversed.

REVERSED

dw